

Julie N. Nong (SBN 208013)  
NT Law Group  
2600 W. Olive Ave., 5th Fl., #647  
Burbank, CA 91505  
Tel: (888) 588-0428  
Fax: (888) 588-0427  
Email: julienong@ntlawgroup.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

ANNA KIHAGI, an individual, a  
limited liability company, AQUAT  
009, LLC, a limited liability company,  
and JAMBAX 2, LLC, a limited  
liability company,

Plaintiffs,

v.

CITY OF WEST HOLLYWOOD,  
CALIFORNIA, a California public  
facilities corporation; ALLISON  
REGAN, a natural person; JEFFERY  
JONES, a natural person, and  
PHILLIP BRANDENBURG, JR. a  
natural person, and DOES I-10,  
inclusive,

Defendants.

CASE 2: 14-cv-00936-PSG (JEMx)

[Assigned to Hon. Philip S. Gutierrez, District Judge,  
Ctrm. 880 - Roybal Courthouse, Hon. John E.  
McDermott, Magistrate, Judge, Ctrm C - LA - Spring  
Street Courthouse]

**FOURTH AMENDED  
COMPLAINT FOR:**

**(1) VIOLATION OF EQUAL  
PROTECTION, 42 USC §  
1983;**

**DEMAND FOR JURY**

## INTRODUCTION

1. Plaintiff Anna Kihagi is a manager of various limited liability companies that are Plaintiffs herein and described below. These limited liability companies own residential rental units in West Hollywood. Kihagi alleges that the Defendants, the City of West Hollywood and various City officials, abused their power and arbitrarily, deliberately and maliciously singled her out in the enforcement of building, property maintenance, construction and other ordinances in an unequal and vindictive manner so as to deny her rights under the Equal Protection Clause, in violation of 42 USC § 1983.

2. The individuals named herein are being sued for their personal actions carried out under the color of law and not solely because of their official capacity.

3. In one instance, under the guise of the City's Rent Stabilization Act ("RSO"), codified as West Hollywood Municipal Code ("WHMC") § 17.52.090, the City filed a criminal complaint against Kihagi alleging that she created a "hostile living environment." The state court granted Kihagi's motion to dismiss on the grounds that the ordinance was unconstitutionally vague and unconstitutionally restricted speech protected by the First Amendment.

4. The City would not have pursued this criminal action but for its personal animus towards Plaintiffs and its hostility to the Ellis Act. Plaintiffs were singled out for disparate and unequal treatment. Plaintiffs are informed and believes that they are the only persons in the history of the City to be charged with a violation of this unconstitutional statute. The decision to prosecute this criminal action was made by defendants Alison Regan and Michael Jenkins in the role as representatives of the City with final decision making authority in filing civil and criminal actions in the name of the City.

5. The City also prosecuted her under WHMC § 17.28.010(b) for failure to reregister a rental unit, namely 1265 N. Crescent Boulevard, without any basis

1 while knowing that the City already had the registration within its possession, and  
2 which cause of action was dismissed after the trial court dismissed the charges  
3 pursuant to WHMC § 17.52.090. The City also charged Kihagi for failure to  
4 reregister the 1235 N. Vista Street rental unit even though the LLCs that Kihagi  
5 managed no longer owned the building as of the date of the filing of the criminal  
6 complaint and that the City was aware that the new owner had reregistered the unit.

7         6. Ms. Kihagi is the principal manager in several limited liability  
8 corporations which own apartment houses located in the City that were, in whole or  
9 in part, taken off the rental market as permitted under the Ellis Act, Cal. Gov. Code  
10 §§ 7060 *et seq.* This action alleges that the City abused its power and acted  
11 arbitrarily, capriciously and maliciously in its enforcement actions against Plaintiffs  
12 by proclaiming its policy statement adopted by the City council of its visceral  
13 opposition to the Ellis Act. In so doing, it has violates the Equal Protection Clause  
14 of the United States Constitution by treating persons who avail themselves of their  
15 rights under the Ellis Act unequally in connection with the enforcement of the City's  
16 municipal code. The wrongful acts complained of herein are in retribution of  
17 Plaintiffs exercising their rights under the Ellis Act and thus violative of Plaintiffs'  
18 rights under the Equal Protection Clause.

19         7. Ms. Kihagi is heterosexual female African immigrant. Plaintiffs are  
20 informed and believes that the City's unequal and disparate treatment of her is  
21 partially the result of bias on the part of City officials Plaintiffs. Plaintiffs allege  
22 they have been discriminated against and treated differently. Moreover, irrespective  
23 of the Defendants' motives, Plaintiffs have been singled out for disparate treatment  
24 and her right to equal protection thus violated.

25         8. The City and its employees have a visceral opposition to the Ellis Act  
26 and as a result have targeted Ms. Kihagi for harassment and attempted to criminally  
27 prosecute her for code violations based on arbitrary and capricious interpretations of  
28

1 the City's Municipal Code. Plaintiffs have faced criminal prosecution under at least  
2 one City Ordinance that the state court held was facially unconstitutionally vague  
3 and unconstitutionally infringed on the First Amendment rights of Kihagi and  
4 others. Plaintiffs are being treated differently in connection with enforcement  
5 actions than other property owners in the City. The vendetta against Plaintiffs is  
6 motivated by personal animus, discrimination and by City's bureaucratic hostility to  
7 the Ellis Act.

## 8 9 10 **JURISDICTION AND VENUE**

11 9. This Court has subject matter jurisdiction over this action under 28  
12 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 1983.

13 10. Venue is proper in the United States District Court for the Central  
14 District of California as all acts complained of occurred within this District.

15 11. Plaintiff, Anna Kihagi, an African-American female, was and is the  
16 managing member of 1263 North Crescent, LLC ("North Crescent"), Jambax 2,  
17 LLC ("Jambax") and Aquat 009, LLC ("Aquat") (collectively "Kihagi, "Plaintiff,"  
18 or "Plaintiffs") which own or manage real property located within the City. She was  
19 the defendant in a criminal action brought by the Defendant for alleged building and  
20 construction violations relative to these properties where all charges were dismissed.  
21 1263 North Crescent, LLC purchased the property with an address known as 1263-  
22 1267 N. Crescent Boulevard, West Hollywood in 2005. Prior to removal the  
23 building from the rental market in 2008, there was no problem with the City.  
24 However, all the problems and harassment only came after Kihagi exercised her  
25 rights under the Ellis Act.

26 12. Plaintiff Aquat 009 LLC ("Aquat") is and at all times mentioned in this  
27 complaint was a limited liability corporation organized and existing under the laws  
28

1 of California. Aquat is controlled by Kihagi and acquired an ownership interest in  
2 1220 N Formosa West Hollywood CA 90069 on or about December 8 2004.

3 13. Plaintiff Jambax 2 LLC (“Jambax”) is and at all times mentioned in this  
4 complaint was a limited liability corporation organized and existing under the laws  
5 of California and is controlled by Kihagi. Jambax 2 LLC acquired an ownership  
6 interest in 12315 Vista Street on or about June 5 2013.

7 14. Defendant, City of West Hollywood, California, is a public facilities  
8 corporation organized and existing pursuant to the laws of the State of California.

9 15. The City is responsible for the acts of its agents and employees, and is  
10 responsible for the enforcement of its construction, building and property  
11 maintenance codes. Due to an aging housing stock and the needs of affordable  
12 rental housing, the City has adopted as its long standing policy a hostility towards  
13 the Ellis Act by proclaiming on its website and adopted by the City Council that its  
14 policy statement and primary strategic goal is to “eliminate, or weaken, the Ellis  
15 Act” and supporting any and all “legislation to eliminate, or weaken, the Ellis Act”  
16 and has put into effect ordinances, rules and regulations intended to discourage  
17 persons from exercising their rights under the Ellis Act. Specifically, the City  
18 enacted WHMC §17.52.030 requiring that just cause must be dominant motive for  
19 eviction pursuant to the Ellis Act, whereas the Ellis Act does not have such a  
20 requirement. The City also adopted languages under WHMC §17.52.010(15) (c) to  
21 prolong the time within which a tenant and the City may commence a civil action  
22 against property owners. All the wrongful acts complained of herein were  
23 authorized by the City and carried out in furtherance of its unlawful policies.

24 16. Defendant Alison Regan is an individual employed by the City of West  
25 Hollywood. She is the City’s attorney responsible for determining all civil actions  
26 brought against Defendants and she responds and/or act in concert with Michael  
27 Jenkins and answers to the City Manager. While so employed, she was responsible

1 for carrying out many of the wrongful acts complained of herein, including  
2 maintaining civil actions against Plaintiffs in retribution to for the exercise of their  
3 rights under the Ellis Act and a personal animus towards Plaintiffs.

4 17. Reagan is not being sued herein solely because she is an employee or  
5 City Official. She is named herein due to her personal acts in connection with  
6 investigating and deciding to file civil actions against Plaintiffs inasmuch as these  
7 civil actions were motivated by a personal vendetta against Plaintiffs. Reagan had  
8 in many instances the final decision making authority in deciding whether to pursue  
9 the civil actions complained of herein. In so acting, she singled out Plaintiffs for  
10 disparate and unequal treatment.

11 18. Alison Reagan the City's attorney responsible for determining whether  
12 to file all civil actions brought against Defendants and she responds and/or acts in  
13 concert with Michael Jenkins, the City Attorney. While so employed, she was  
14 responsible for carrying out many of the wrongful acts complained of herein,  
15 including decisions to prosecute the civil actions referred to herein against Plaintiffs  
16 in retribution to for the exercise of their rights under the Ellis Act and a personal  
17 animus towards Plaintiffs.

18 19. Reagan has an official policy making role with the City in that she has  
19 the discretion and final say when to file civil and other enforcement actions on the  
20 City's behalf. Reagan acted as a policy maker in connection with deciding to file the  
21 civil actions complained of herein.

22 20. Michael Jenkins is an individual employed by the City of West  
23 Hollywood as the City Attorney. He is the City's attorney responsible for  
24 determining all civil actions brought against Defendants. Michael Jenkins is the  
25 appointed City Attorney and the chief legal officer of the City. He implements the  
26 vision, broad policy goals and ongoing strategic programs of the City Council and  
27 ensures that City operations remain true to and consistent with the Mission

1 Statement and Core Values of the City. City Attorney duties include provision of  
2 legal advice to the City Council and City staff; supervision of all matters of legal  
3 significance; preparation of legal opinions; review and drafting of ordinances,  
4 resolutions, contracts and program guidelines; and defense of challenges to City  
5 actions, laws, policies and procedures. While so employed, he was responsible for  
6 carrying out many of the wrongful acts complained of herein, including maintaining  
7 civil actions against Plaintiffs in retribution for the exercise of their rights under the  
8 Ellis Act and a personal animus towards Plaintiffs. Jenkins and Alison Regan had  
9 final decision making authority as to whether to file the civil actions complained of  
10 herein, all in the name of the City.

11 21. Michael Jenkins occupies a policymaking role. He acts on behalf of the  
12 City in deciding, either by himself or in conjunction with other attorneys, whether to  
13 file civil actions. In his policy making role and as a representative of the City, he  
14 made decisions to file and prosecute the civil actions against Plaintiffs herein.

15 22. Jenkins has an official policy making role with the City in that he has  
16 the discretion when to file civil and other enforcement actions on the City's behalf.  
17 Jenkins acted as a policy maker in connection with deciding to file the civil actions  
18 complained of herein and it that capacity acted on behalf of the City.

19 23. Defendant Jeffery Jones is an individual employed by the City of West  
20 Hollywood. While so employed, he was responsible for issuing citations to Plaintiff  
21 as complained of herein in retribution for the exercise of her rights under the Ellis  
22 Act and a personal animus towards Plaintiffs. In addition, Jones delayed the  
23 issuance of permits, delayed inspections and took other official action against  
24 Plaintiffs motivated by a personal animus towards Plaintiffs and in retribution for  
the exercise of their rights under the Ellis Act.

25 24. Jones is not being sued solely due to his official capacity, but rather for  
26 his actions in carrying out a personal vendetta against Plaintiffs in issuing violations  
27  
28



1 for alleged code violations as complained of herein. Jones singled out Plaintiffs and  
2 charged them with code violations that would never have been charged to other  
3 persons. Jones, acting under color of law, singled out Plaintiffs for unequal and  
4 disparate treatment due to a personal animus and in retribution for Plaintiffs  
5 exercising their rights under the Ellis Act.

6 25. Defendant Phillip Brandenburg, Jr. is an individual employed by the  
7 City of West Hollywood. While so employed, he was responsible for issuing  
8 citations to Plaintiffs as complained of herein in retribution for the exercise of their  
9 rights under the Ellis Act and a personal animus towards Plaintiffs. In addition,  
10 Jones delayed the issuance of permits, delayed inspections and took other official  
11 action against Plaintiff motivated by a personal animus towards Plaintiffs and in  
12 retribution for the exercise of their rights under the Ellis Act.

13 26. Brandenburg is not being sued solely due to his official capacity, but  
14 rather for his actions in carrying out a personal vendetta against Plaintiffs in issuing  
15 violations for alleged code violations as complained of herein. Brandenburg singled  
16 out Plaintiffs and charged them with code violations that would never have been  
17 charged to other persons. Brandenburg, acting under color of law, singled out  
18 Plaintiffs for unequal and disparate treatment due to a personal animus and in  
19 retribution for Plaintiffs exercising their rights under the Ellis Act.

20 27. Plaintiffs are informed and believe and thereon allege that, at all times  
21 mentioned herein, Defendants were agents and/ or co-conspirators of each of their  
22 co-defendants and in doing the things herein after mentioned, or acting within the  
23 course and scope of their authority of such agents, servants, employees, alter egos,  
24 superiors, successors in interest, joint venturers and/ or co-conspirators with the  
25 permission and consent of their co-defendants and, consequently, each Defendant  
26 named herein, and those Defendants named herein as DOES 1 through 10, inclusive,



1 are jointly and severally liable to Plaintiffs for the damages and harm sustained as a  
2 result of their wrongful conduct.

3 28. Defendants, and each of them, aided and abetted, encouraged, and  
4 rendered substantial assistance to the other Defendants in breaching their obligations  
5 to Plaintiffs, as alleged herein. In taking action, as alleged herein, to aid and abet  
6 and substantially assist the commissions of these wrongful acts and other  
7 wrongdoings complained of, each of the Defendants acted with an awareness of its  
8 primary wrongdoing and realized that its conduct would substantially assist the  
9 accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

10 29. Each and every individual Defendant named in this complaint is being  
11 sued in individual capacities for the acts they are personally responsible for acting  
12 under color of law. They and not solely due to their official capacities.

13 30. The true names and capacities of Defendants DOES 1 through 10,  
14 inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by such  
15 fictitious names. Plaintiffs are informed and believe on that basis allege that each of  
16 the Defendants designated herein as a DOE is responsible in some manner and to  
17 some extent for the events and occurrences referred to herein and for the damages  
18 suffered by Plaintiffs. At such time as Plaintiffs learn the true name and capacity of  
19 any Defendant named as a DOE herein, Plaintiffs will amend her complaint to  
20 identify said defendant, and include accompanying charging allegations.

21  
22 **STATEMENT OF FACTS**  
23

24 31. The population of the City of West Hollywood, according to the most  
25 recent census data, is 34,650. The City has a very strict rent control ordinance and a  
26 large portion of its residents reside in apartments that rent far below market value.  
27 The popular support for rent control within the City by residents that benefit from

1 the rent control ordinance is reflected by policies and enforcement actions taken by  
2 City officials who enforce the City's municipal code.

3 32. Due to an aging housing stock and the needs of affordable rental  
4 housing to low income residents, the City has adopted as its long standing policy a  
5 hostility towards the Ellis Act by proclaiming on its website that its policy statement  
6 and primary strategic goal is to "eliminate, or weaken, the Ellis Act" and supporting  
7 any and all "legislation to eliminate, or weaken, the Ellis Act". As a result, it has  
8 put into effect ordinances, rules and regulations intended to discourage persons from  
9 exercising their rights under the Ellis Act. Specifically, the City enacted WHMC  
10 §17.52.030 requiring that just cause must be dominant motive for eviction pursuant  
11 to the Ellis Act, whereas the Ellis Act does not have such a requirement. The City  
12 also adopted languages under WHMC §17.52.010(15) (c) to prolong the time within  
13 which a tenant and the City may commence a civil action against property owners.

14 33. The ordinances and regulations adopted by the City are unlawful and  
15 inconsistent with the Ellis Act even though the City is aware that its attempt to  
16 regulate this area of commerce is pre-empted by State law. Time and again the City  
17 has taken unreasonable positions concerning the proper interpretation of the Ellis  
18 Act and attempted to coerce Plaintiffs and others to abide by its patently  
19 unreasonable interpretation of the Ellis Act.

20 34. In response to the enactment of rent control ordinances by cities in  
21 California, including West Hollywood, and a California Supreme Court decision  
22 holding that landlords do not have the right to evict tenants to go out of the business  
23 of being a landlord, the California legislature enacted the Ellis Act. The Ellis Act  
24 provides generally that no local government can compel a rental property owner to  
25 continue to offer their housing for rent and allows rental property owners to exit the  
26 business and after a period of time to re-enter. The Ellis Act is lawfully used by  
27 property owners to take all or a portion of the units in a building off the market,

1 renovate and then bring the property back onto the market after a proscribed period  
2 of time. Because of the City's openly and unreasonably hostile policy to the Ellis  
3 Act proclaimed as its mantra, it has enforced its ordinances in an arbitrary and  
4 capricious manner against Plaintiffs in retaliation for Plaintiff availing themselves of  
5 the privileges afforded under the Ellis Act, on the basis of a personal animus  
6 towards Plaintiffs, and no one else.

7 35. On July 17, 2008, 1263 N. Crescent, LLC notified the City that it was  
8 withdrawing eight units located at 1263-1267 N. Crescent Heights Blvd from the  
9 rental market pursuant to West Hollywood Municipal Code ("WHMC") Section  
10 17.52.010(15), also known as the "Ellis Provision." At the time of the notification,  
11 four units out of eight were vacant, the prior tenants having voluntarily vacated their  
12 tenancies.

13 36. Soon after the notification to Ellis the building, in an effort to delay,  
14 frustrate and thwart Kihagi's rights to remove 1263-1267 N. Crescent from the  
15 rental market, Alison Regan encouraged Moshe Straz, a contractor who had  
16 performed work for Kihagi, to file a false claim that he was a tenant living in unit  
17 1263 ½ of N. Crescent against Kihagi so that he could receive relocation fees of  
18 \$17,000. Alison Regan directed the preparation of Straz declaration for use in  
19 support of an ex parte application for a temporary restraining order (City of West  
20 Hollywood v. Kihagi, 1253 North Crescent, LASC Case No. 100392), which was  
21 granted on October 30, 2008. By November 7, 2008, Straz retracted his  
22 misstatements and claims against Kihagi. However, by this time, Regan was able to  
23 force Kihagi to reach an agreement by giving four additional tenants an additional  
24 90 days to eight months from November 14, 2008 to vacate their units. The parties  
25 agreed that the court would retain jurisdiction for purposes of enforcement  
26 settlement.  
27  
28

1           37. Plaintiffs are informed and believe that at all times relevant, Michael  
2 Jenkins acted in concert with Alison Regan in filing a frivolous ex-parte application  
3 for preliminary injunction in an effort to delay Plaintiffs' right to Ellis the building.  
4 Jenkins and Regan acted on behalf of the City and had the final decision making  
5 authority to do so.

6           38. Pursuant to the Ellis Provision and agreement with the City, the  
7 withdrawal of all units became effective November 14, 2008, except unit 1267,  
8 which has a date of withdrawal of July 18, 2009 because the occupying tenant at this  
9 unit qualified for a one-year extension under Government Code Section 7060.4(b).  
10 The City filed and recorded with the Los Angeles County Recorder's Office two  
11 separate notices of restrictions: 1) Notice of Restrictions to Owners and Successors  
12 (Ellis Act) 1263-1267 Crescent Heights Blvd., West Hollywood, CA notifying  
13 owners the date of withdrawal of November 14, 2008; 2) Notice of Restrictions to  
14 Owners and Successors in Interest (Ellis Act) 1263-1267 Crescent Heights Blvd.,  
15 *Unit 1267*, West Hollywood, CA notifying owners the date of withdrawal of July  
16 18, 2009. The Ellis Act follows the 2/5/10 year reintroduction scheme where the  
17 earlier a property owner return a property to the market, the more severe penalties in  
18 term of monetary damages she would have to pay. As such, the date of withdrawal  
19 is a very critical date because it triggers the time within which an owner may return  
20 a property to the rental market, as well as the time a statute of limitation starts to  
21 run.

22           39. While knowing that the effective date of withdrawal for all units,  
23 except Unit 1267, has a date of withdrawal of November, Regan continued to  
24 intentionally represent to the courts and papers filed where a lawsuit was instituted  
25 against Kihagi that the date of withdrawal is July 18, 2009. This deliberate  
26 misrepresentation allowed her to coax another tenant in unit 1265 ½ to initiate  
27 another rent reduction hearing even though more than five years have passed since  
28

1 that unit was withdrawn from the rental market. Regan's zealous efforts to harass  
2 and make Kihagi's life difficult and unbearable in promulgating the city policy to  
3 eliminate the Ellis Act did not stop with coaching Straz to make false claim but she  
4 continued to deliberately make false misrepresentations to tenants and the courts and  
5 other venues in light of the City's own documents. Her conduct cannot be said to be  
6 based on any rational basis and went beyond what a reasonable person would do due  
7 to her vendetta and hatred against Kihagi for invoking the Ellis Act in promulgating  
8 the City's objective to weaken the Ellis Act by single Kihagi out and thereby  
9 indirectly discouraging anyone else from exercising his/her rights. In carrying out  
10 these acts, Regan was representing the City with final decision making authority.

11 40. In another example showing the City's effort to circumvent the Ellis  
12 Act, the parties stipulated to a specific judgment to which the City would be entitled  
13 in the event of a breach of the Agreement by Kihagi in the *Kihagi I* matter.  
14 (Crescent is also a party to the Kihagi I action and a party to the settlement.)  
15 Nevertheless, in conjunction with its motion for enforcement, Regan initially  
16 submitted a proposed judgment that was not the judgment to which the parties  
17 stipulated. Regan tried to wrongfully obtain the addition of the following  
18 substantive matter to the judgment: "Appellants, their agents, representatives,  
19 successors, assigns, and all those acting in concert with them are permanently  
20 enjoined from the following: 1. Renting, or offering for rent, including advertising  
21 the units, the remaining vacant units at the property until after July 18, 2019." This  
22 provision was not included in the original stipulated judgment because the Parties  
23 never agreed to it. This item underscores how the City sought to read into the  
24 Agreement a term that simply did not exist and was contrary to the Ellis Act. This  
25 deceptive act was done in the name of the City and motivated by a personal animus  
26 and vendetta against Kihagi and Crescent.

1           41. Commencing July 17, 2009, Crescent began renovating 1263 N.  
2 Crescent Heights. The appropriate work and building permits were obtained from  
3 the City and were displayed as required by law.

4           42. On or about January 11, 2010 and continuing thereafter, the City,  
5 through its Department of Code Compliance, issued several citations for violations  
6 of WHMC §19.30.030(P), Property Maintenance Standards, and WHMC §7.24.010,  
7 Standards for Vacant, Abandoned or Undeveloped Property. These violations were  
8 issued notwithstanding that the Crescent Heights property was never abandoned or  
9 vacant. The violations were issued against Kihagi, Crescent, Aquat and Jambax.

10           43. The City singled out Plaintiffs for enforcement of a variety alleged  
11 code violations in an arbitrary, capricious and vindictive manner. The City was  
12 motivated by a personal hostility and strong arm tactics towards Plaintiffs arising  
13 from the exercise of their rights under the Ellis Act which conflicted with the City's  
14 objective and goal to weaken the Ellis Act. One way to weaken the Ellis Act is  
15 applying its power to discourage anyone from exercising it by constantly harassing  
16 and frustrating that person or entity with silly code violations and bombarding her  
17 with criminal and civil proceedings. By making Plaintiffs examples, the City will  
18 achieve its objective in discouraging others from invoking the Ellis Act. The City  
19 has achieved its objective by discouraging Plaintiffs exercising their rights under the  
20 Ellis Act in connection with other apartment buildings owned and managed by  
21 Plaintiffs.

22           44. West Hollywood Municipal Code § 19.30.030 (J)(2), for example,  
23 makes it a violation to maintain property "with a lack of adequate landscaping or  
24 ground cover sufficient to prevent blowing dust or erosion, or allowing the  
25 landscaping on private property or in a parkway to cause a hazard or inconvenience  
26 to pedestrians using the public sidewalk."  
27  
28

1           45. Pursuant to this Code section, Plaintiffs have been cited numerous  
2 times due to a deviation of about ½ inch between the grass on her property and the  
3 top of the sidewalk. Virtually all the other properties on her block and on adjoining  
4 streets have this condition, with many of the properties having much greater  
5 deviations. Notwithstanding that deviations of this type are the general rule rather  
6 than the exception throughout West Hollywood, Plaintiffs and Plaintiffs alone have  
7 been singled out for enforcement with citations alleging that the condition  
8 constitutes a "tripping hazard."

9           46. Plaintiffs are informed and believe that they are the only persons within  
10 the City of West Hollywood that has received a "tripping hazard" citation based on  
11 the general conditions that formed the basis for the tripping hazard violations issued  
12 to Plaintiffs. The issuance of tripping hazard citations was motivated by a personal  
13 animus towards Plaintiffs motivated by their decisions to avail themselves of her  
14 rights under the Ellis Act.

15           47. WHMC §19.30.030(P) makes it a code violation when "A violation of  
16 any other provision of the Municipal Code or the Building Code that pertains to real  
17 property, structures, or which otherwise concerns the public health, safety, and  
18 general welfare."

19           48. WHMC §7.24.010 applies only to vacant, abandoned or  
20 underdeveloped property, and does not apply to property that is undergoing  
21 renovation or rehabilitation.

22           49. Municipal Code § 7.24.010 provides that in the case of vacant or  
23 abandoned buildings, the owner shall maintain such property in "good condition,  
24 keeping it cleaned, watered and weeded. Dead or dying plant material shall be  
25 removed." Crescent and Kihagi received a notice of violation on the grounds that  
26 there existed a brown spot on the corner of her lawn at the Crescent Heights  
27 property. Similar properties on the street or of the same conditions as of the Orange  
28



1 Grove, Crescent or Formosa property had lawns that were completely un-watered  
2 with dead grass. Moreover, properties throughout the City have front yards  
3 consisting totally of dead grass and dirt, but are not cited. Plaintiffs allege that the  
4 issuance of the “dry spot on the lawn” citation was issued based on a personal  
5 animus towards Plaintiffs and was arbitrary and capricious.

6 50. Plaintiffs allege they are the only persons in the history of the City that  
7 have received a citation for the type of condition that existed on their properties and  
8 that they were singled out and targeted due to a personal animus towards them  
9 motivated in part by the City’s opposition to the Ellis Act and in retribution for  
10 Plaintiffs availing themselves of their rights under the Ellis Act.

11 51. All work was completed at North Crescent Heights in early 2012. In or  
12 about August 2011, the City commenced criminal proceedings (People v. Kihagi,  
13 LASC Case No. MC 1BV01333) against Plaintiffs for a number of citations that  
14 were issued in prior years but never resolved, many of which are described above.

15 52. The citation based on trash accumulating in the back yard, a citation  
16 which later became the subject of a criminal action, was based on construction  
17 materials being stacked in a paved area for the trash cans are designed to be placed.  
18 The area is not visible from the street. The City does not issue citations for the  
19 condition on Plaintiff’s property and would not have issued the trash accumulation  
20 citation but for its animus towards Plaintiffs and the City’s visceral opposition to the  
21 Ellis Act and persons who avail themselves of their privileges under the Act.

22 53. To resolve the alleged criminal citations based on Code violations, the  
23 City and the Plaintiffs entered into a deferred prosecution agreement to resolve the  
24 criminal citations. The term of the agreement was 18 months and would expire on  
25 November 12, 2013. All charges were ultimately dismissed against Plaintiffs.

26 54. Just prior to the expiration of the deferred prosecution agreement, the  
27 City made an ex parte application to the Court in an attempt to revoke the  
28

1 agreement. The City alleged that the Plaintiffs were either engaging in unpermitted  
2 construction at other properties, or that the properties were being maintained in  
3 violation of the property maintenance code.

4 55. The Court denied the City's application for ex parte relief. The Court  
5 further found that Plaintiffs had not violated the deferred prosecution agreement.  
6 The City petitioned the Superior Court to find Plaintiffs were violation of the  
7 deferred prosecution agreement in bad faith and without cause.

8 56. Meanwhile, on May 16, 2012 the City filed a motion to enforce  
9 settlement pursuant to the settlement agreement reached in January 9 of 2011  
10 claiming that Kihagi, Crescent and Aquat re-rented certain units and thereby  
11 violating the settlement agreement. The City learned of Plaintiffs re-renting the  
12 units by actively search through rental websites for advertising showing units for  
13 rent even though more than three years have passed since the property was taken off  
14 the rental market. It is important to note that the Ellis Act prohibited the city from  
15 enforcing contractual Ellis Act waivers in all circumstances except those specified  
16 in the statute. *Embassy LLC v. City of Santa Monica*, 185 Cal.App.4<sup>th</sup> 771, 776  
17 (2010). The City claimed that Kihagi, Crescent and Aquat entered into an  
18 agreement whereby she had agreed not to re-rent any units for the next 10 years.  
19 The waiver argument is not only impermissible under the Ellis Act, but the  
20 judgment obtained was reversed on appeal on January 7, 2014.

21 57. In or about July 2012, an attorney representing the City, Regan,  
22 approached tenants at the Crescent Heights building, Diana Dominguez and Logan  
23 Yuzna, and told the tenants that they could obtain a rent reduction if they made a  
24 complaint. In fact, there were no grounds for the tenants to receive a rent reduction  
25 and Regan was aware of the fact there was no MAR for the unit as of the date of the  
26 July 17, 2008 notice of intent to withdraw. After the complaint was filed, an  
27 internal hearing was scheduled and the complaining tenants recruited by Regan  
28

1 failed to show up, as did Regan herself who showed up at the first hearing. The  
2 Administrative Law Judge presiding at the hearing dismissed the complaint and  
3 stated on the record that: “No one would have believed testimony of the tenants that  
4 they were tenants.”

5 58. The actions taken by the attorney for the City, Regan, were done with  
6 the knowledge and ratification of the City to further the City’s primary goal to  
7 weaken the Ellis Act and motivated by a personal animus towards Plaintiffs and  
8 were malicious. Not only was it carried out maliciously, it was done in complete  
9 disregard for Plaintiffs right to be treated equally. As a result of the City’s and  
10 Regan’s misconduct, Plaintiffs were deprived of their constitutional rights and  
11 incurred attorney fees and other damages in defending numerous claims and suits  
12 against her.

13 59. On or about July 18, 2013, the City approved a building permit  
14 application for 1231 N. Vista, a property in which is owned by Jambax with Kihagi  
15 the managing member. The approved building permit allowed for minor  
16 improvements to the bathrooms and kitchen, replacement of the front door,  
17 replacement of closet doors and replacement of water heater enclosure.

18 60. On or about July 31, 2013, the property was inspected by Code  
19 Compliance Officer Jeffrey Jones. During his inspection, Mr. Jones alleged that he  
20 observed a property maintenance code violation at the 1231 N. Vista property. Mr.  
21 Jones alleged that the N. Vista property's parkway contained a tripping hazard, as  
22 well as lack of landscaping and overgrown and dead vegetation all in violation of  
23 WHMC property maintenance requirements. He sent a warning notice to Jambax  
24 and Kihagi concerning these alleged code violations.

25 61. This warning was issued notwithstanding that the same tripping  
26 hazards existed at the property that was adjacent to 1231 N. Vista in addition to  
27 many, many other properties in the City.

1           62. On or about August 13, 2013, Mr. Jones returned to the N. Vista  
2 property at 7:34 a.m. and observed that no corrective action had been taken  
3 concerning the tripping hazard on the parkway, nor with the removal of the  
4 vegetation and plant material. On or about August 14, 2013, Mr. Jones issued a  
5 notice of violation to Plaintiffs concerning the alleged tripping hazard.

6           63. There are close to fifty other buildings that Jones could have  
7 investigated, but he deliberately went straight to another real property managed by  
8 Aquat 009, LLC in which Kihagi is a managing director located at 1220 Formosa  
9 and got there by 7:40 a.m. and issued another notice of violation on August 15, 2013  
10 for a "tripping hazard" on the parkway, and for failure to properly landscape the  
11 property. The condition for which the tripping hazard was issued is common to all  
12 properties throughout the City and Plaintiffs were arbitrarily singled out for  
13 enforcement. Mr. Jones indicated to Kihagi that he had been aware of the  
14 landscaping during the time owned by previous property owner. The City never  
15 writes tripping hazard citations based on the condition that existed on the property.  
16 In fact, the no reasonable person would ever characterize the condition as  
17 constituting a tripping hazard. Mr. Jones issued the tripping hazard citations based  
18 on his personal animus towards Plaintiffs stemming initially from his personal  
19 opposition to Ellis Act conversions and deliberately targeted Plaintiffs for exercising  
20 that right. On information and belief, Mr. Jones has never cited another property for  
21 maintenance of a tripping hazard based a condition similar to the condition that  
22 existed on 1220 North Formosa even though similar conditions are common  
23 throughout the City.

24           64. Properties that are adjacent to 1220 N. Formosa, for example, have  
25 conditions similar to the condition that Mr. Jones alleged a tripping hazard but have  
26 never been cited. The nature of the landscaping violations and trip hazards was that  
27 the soil level had to be raised about ¼ inch to the same level as the concrete  
28

1 walkway. By deliberately issuing citations to Plaintiffs and no one else, Jones'  
2 conduct deprived Plaintiffs of their rights under the fourteenth amendment.

3 65. Defendant and City Official, Code Compliance Officer, Jeffery Jones is  
4 responsible for writing citations alleging the tripping conditions complained of  
5 herein. The conditions on the properties that led to the so-called tripping violations  
6 were the same conditions that existed on virtually all other properties on the same  
7 streets. The relevant section of the Municipal Code that was violated prohibits  
8 unsafe conditions and makes no mention of deviations between the grass line and  
9 surrounding cement. Given the condition on the properties for which the citations  
10 were issued, no reasonable person could conclude that a public safety hazard  
11 existed. The numerous trip violation citations concern conditions common in the  
12 neighbourhood yet no other persons have been cited for this condition.

13 66. On another occasion in the summer of 2013, Mr. Jones and another  
14 inspector, Phillip Brandenburg, inspected 1237 N. Orange, a property that is owned  
15 by Jambax and Kihagi is the managing director. They inspected the interior stairs  
16 and hand railings to determine if these items were of the proper size. They also  
17 inspected a small set of stairs leading to the parking lot. The exterior rear staircase  
18 measures 10 feet by 5 feet. The inspectors individually measured 15 steps to  
19 determine if each step, which was required by WHMC to be 7 inches high and 11  
20 inches wide, was in compliance. Two of the stairs did not meet these requirements,  
21 and were promptly repaired. They then measured each rail, of which there were  
22 over 100, to determine if each rail was 4 inches apart. Four rails did not meet this  
23 requirement. These were promptly repaired. Plaintiffs attempted at least four times  
24 to set up an appointment from August 2013 to September 2013 to have the property  
25 re-inspected, neither Mr. Jones nor Mr. Brandenburg showed up at the appointed  
26 time.

1           67. After September 2013, Kihagi again made multiple requests for  
2 inspections that mostly have been ignore. She again contacted the City and was told  
3 that there would be an inspection on September 13, 2013. The night before, she  
4 flew into town, just for the inspection. The inspector did not come and she then  
5 personally contacted Brandenburg, who informed her that he would not respond to  
6 her request, and that she should have been informed by Jones that there were  
7 multiple parties to coordinate for inspection; and that any such inspection would not  
8 occur until all were able to coordinate scheduling.

9           68. Indeed, the City has time and again cancelled or missed appointment to  
10 approve improvements to Plaintiffs' properties so that the inspection could not be  
11 completed within the window of time where Plaintiffs must be in compliance and  
12 pursuant to the agreement she'd entered into at the time of her plea in the criminal  
13 case No. 1BV01333. Using the fact that there was no final permit issued, the City  
14 sought to have Kihagi found not to be in compliance and dragged her back to court  
15 for sentencing. However, the court found that Kihagi was doing exactly what she  
16 was supposed to be doing and dismissed all charges against her. These cancelled  
17 and missed appointments were motivated by an animus towards Plaintiffs and an  
18 intention by the City to make doing business with the City as difficult as possible.  
19 Plaintiffs have suffered substantial injury as a result of the City's intentional delays  
20 in the form of lost income, emotional distress, increased expenses, additional  
21 financing expenses and other economic damages. Plaintiffs now fear invoking the  
22 Ellis Act due to the City's constant harassment and strong arm tactics.

23           69. Defendant and City Official Phillip Brandenburg time and again  
24 deliberately delayed and failed to appear for inspections of construction work  
25 inspection appointments without any basis. Brandenburg's deliberate indifference  
26 to Plaintiffs' rights to equal protection caused them to be dragged back into court.  
27 The delays have caused increased construction costs and longer vacancy periods.

1 On information and belief, these delays and missed appointments are motivated by a  
2 personal hostility towards Plaintiffs who are being singled out for disparate  
3 treatment. The delays have caused economic injury in the form of increased  
4 construction costs and delays in being able to rent Plaintiffs' properties.

5 70. The alleged stair and stair rail violations that existed on Plaintiffs' 1237  
6 North Orange property were *de minimus* and technical. Violations such as the ones  
7 alleged against are never enforced against other property owners in the City.  
8 Plaintiffs allege that the only reason that she was cited for the stair and stair rail  
9 violations are that Mr. Jones and Mr. Brandenburg have a personal animus towards  
10 Plaintiffs stemming from their hostility to Ellis Act conversions and their prior  
11 dealings with Plaintiffs. Their repeated individual acts under the color of state law  
12 of specifically looking for any kinds of de minimus violations to write Plaintiffs up  
13 and not schedule and/or cancel a final inspection because Kihagi was near the end of  
14 her probation term were deliberately indifferent to the mandates of the Fourteenth  
15 Amendment and calculated to deprive Kihagi of her rights to be treated equally. Mr.  
16 Jones and Mr. Brandenburg would not have cited any other similarly situated person  
17 or property for these violations. They would not have cited Plaintiffs if it were not  
18 for the personal animus towards Plaintiffs and the vendetta carried out by  
19 Brandenburg and other City employees.

20 71. The requirement that permits be obtained for work on dwellings has  
21 been unevenly enforced against Plaintiffs. Jeffrey Jones has issued citations for  
22 work without a permit while at the same time not requiring permits for work on  
23 adjacent properties. In one case, a worker was taking down outdoor fixtures  
24 providing shade to windows. Plaintiffs witnessed similar work on an adjacent  
25 property and the City has not required a construction permit. This type work is  
26 routinely considered de minimus by the City and no permits are required. Plaintiffs  
27 allege on information and belief that Jones and the City have a vendetta against



1 Plaintiffs and have enforced the permit requirement in an arbitrary and disparate  
2 manner.

3 72. At the first sentencing hearing on revocation of the deferred sentencing  
4 agreement in the fall of 2013, the Defendant attempted to use the incidents described  
5 above as a basis for revocation of the agreement and to have the Kihagi sentenced  
6 for violating the deferred sentencing agreement.

7 73. The state court rejected the City's argument and found that the nature  
8 of the work and the type of workers that needed to be involved showed that  
9 Plaintiffs' efforts were diligent and reasonable. The City's attempt to revoke the  
10 deferred sentencing agreement was motivated by discrimination based on race and  
11 gender and a personal animus towards Plaintiffs. The City's actions were malicious,  
12 arbitrary and capricious.

13 74. Moreover, at the hearing initiated by the City to revoke the deferred  
14 sentencing agreement, the Court found against the City. The state court found that  
15 the Kihagi's efforts were diligent and reasonable and rejected the City's position  
16 that Kihagi should be jailed. The Court found that the Plaintiffs had complied with  
17 the Building Code by obtaining the proper building permits, thus vindicating the  
18 Plaintiffs' position. The City acted maliciously and without probable cause in  
19 initiating the hearing where they sought to revoke the deferred sentencing  
20 agreement. The state court further found that the City acted unreasonably in failing  
21 to show up for appointments to approve work that had been performed. Plaintiffs  
22 allege that the City has a practice and pattern of delaying construction on Plaintiffs'  
23 properties solely due to personal animus vindictiveness towards Plaintiff.

24 75. In another matter, *City of West Hollywood v. Anna Kihagi* (*City v.*  
25 *Kihagi I*), Los Angeles Superior Court Case No. SC100932, the City filed a civil  
26 action against Kihagi, Aquat and Crescent. Unable to prove its case, the City and  
27 Plaintiffs entered into a settlement agreement whereby Plaintiffs would pay nothing,

1 provided there were no further Ellis Act violations. If any further violations did  
2 occur, Plaintiffs would pay \$10,000. The trial court retained jurisdiction to enforce  
3 the settlement. In 2012, the City sought to find Plaintiffs in violation of the Ellis  
4 Act and to find them in violation of the settlement agreement. On appeal, the Court  
5 of Appeal found that the City's proffered interpretation of the settlement agreement  
6 and the Ellis Act was patently unreasonable and reversed, holding that the City had  
7 not presented any evidence the Plaintiffs violated the Ellis Act and that its  
8 construction of the Ellis Act and settlement agreement was unreasonable.

9 76. The decision to pursue a violation of the settlement agreement by  
10 taking a patently unreasonable position was made by Alison Regan acting with final  
11 decision authority to prosecute this action in the name of the City.

12 77. The prosecution of Case No. SC100932 was vindictive and  
13 discriminatory from the outset. The underlying alleged violations were without  
14 merit and never would have been prosecuted if it were not for the City's animus  
15 towards Plaintiffs and the City's determination to retaliate against Plaintiffs for  
16 exercising their rights under the Ellis Act, thereby achieving its primary goal to  
17 deter other from exercising such rights and effectively weaken the Ellis Act.

18 78. As other evidence of the City maliciously singling out Plaintiffs are the  
19 events in the hearings associated with *People v. Kihagi*, Case No. 1BV01333.  
20 Plaintiffs prevailed in this action and did not suffer criminal conviction convictions.  
21 In that case, the City alleged as criminal various code violations regarding the  
22 upkeep of Kihagi's properties. The code violations alleged against Plaintiffs  
23 involved conditions on their property that were common to all properties in the  
24 neighbourhood although no other property owners received code citations, much  
25 less criminal prosecution. The code violations that morphed into criminal  
26 prosecution included the following:  
27  
28

- 1 a. Violation of Municipal Code § 7.24.010 provides the owner shall  
2 maintain such property in “good condition, keeping it cleaned,  
3 watered and weeded. Dead or dying plant material shall be  
4 removed.” Plaintiffs received a violation for having a brown  
5 spot on their lawn when other properties on the street had  
6 completely dry grass;
- 7 b. Municipal Code § 19.30.030 (J)(2) makes it a violation to  
8 maintain property "with a lack of adequate landscaping or  
9 ground cover sufficient to prevent blowing dust or erosion, or  
10 allowing the landscaping on private property or in a parkway to  
11 cause a hazard or inconvenience to pedestrians using the public  
12 sidewalk." Pursuant to this section, Plaintiff was charged with  
13 having a lawn with about a ¼ deviation from the sidewalk.  
14 Plaintiff received a violation became the subject of criminal  
15 prosecution although literally all other properties in the  
16 neighborhood have deviations between the level of the grass and  
17 sidewalk exceeding ¼ inch and have never received a citation.  
18 The prosecution for this offense was vindictive, selective and  
19 made in retribution for Plaintiffs exercising their rights under the  
20 Ellis Act.
- 21 c. Municipal Code § 7.24.010(e) requires property owners to  
22 “[s]ecure, lock and close all buildings and structures upon the  
23 property, place or area in accordance with presently applicable  
24 FHA-standards, subject to the approval of the Building Official.  
25 Pursuant to this section, Plaintiff was criminally prosecuted for a  
26 violation that a window on the Crescent Heights property was  
27 left open ¼ inch, despite the fact that the ordinance applies to  
28

1 vacant buildings and Plaintiff's property was not vacant.

2 Moreover, application to this ordinance to a window open ¼ inch  
3 is arbitrary and capricious and makes no sense. Plaintiffs were  
4 singled out for prosecution due to personal animus towards  
5 Plaintiffs and as retribution for exercising their rights under the  
6 Ellis Act.

7 d. Municipal Code § 7.24.010(c) requires the owner of a vacant  
8 building to "[s]ubmit a "Letter of Agency" to the West  
9 Hollywood Sheriff's Station every thirty days and post "No  
10 Trespassing" signs as required so that members of the Sheriff's  
11 Department are empowered to remove all unauthorized persons  
12 from the property. The "letter of agency" is a letter informing  
13 the Sheriff's Department of the person responsible for the  
14 property. The statute is arbitrary and designed to harass Ellis Act  
15 properties to the extent that it requires a new letter every 30 days  
16 even if there has been no change in the responsible party.  
17 Plaintiff was subject to criminal prosecution for violation of the  
18 ordinance. The prosecution was selective in the sense that no  
19 other person in the history of the City has been criminally  
20 prosecuted for violating this provision of the ordinance.

21 e. The City also sought to further prosecute Plaintiffs for a myriad  
22 of other technical violations in a selective and vindictive manner  
23 motivated by a personal animus towards Plaintiffs and in  
24 retaliation for exercising their rights under the Ellis Act.

25 f. In this criminal prosecution, Plaintiff entered into an agreement  
26 that the allegations would not be pursued provide no further  
27 violations occurred, provided that the City first give notice of  
28

1 any alleged violations and an opportunity to cure. The City  
2 unsuccessfully sought to pursue the prosecution and sentencing  
3 on the initial allegations based on code violations that occurred  
4 after the criminal prosecution was initiated. The state court  
5 judge rejected the City's attempt to use the subsequent violations  
6 to trigger prosecution of the initial violations on the grounds that  
7 the City had not provided notice to Plaintiff's attorney in the  
8 criminal case. The failure to provide Plaintiff's attorney notice  
9 and opportunity to cure the subsequent violations was calculated  
10 and intended to deprive Plaintiff the opportunity to cure the  
11 alleged subsequent violations.

12 79. The misconduct complained of herein is ongoing. In another civil  
13 action, *Sheehe v. Kihagi*, Case SC 119079 ("the *Sheehe* action"), the City incited a  
14 former tenant to bring a meritless action against Kihagi, Crescent and Aquat on  
15 November 15, 2012, and then the City intervened on March 19, 2013 to advocate  
16 patently unreasonable and unlawful positions against Plaintiffs. On June 6, 2013,  
17 nearly four years after the property was withdrawn, the City obtained a preliminary  
18 injunction to bar Kihagi, Crescent and Aquat from re-renting four units at the  
19 property located at 1263 N. Crescent Heights even though the Ellis Act does not  
20 provide for injunctive relief against Kihagi. To circumvent the Ellis Act, the City  
21 invoked WHMC §17.068.010(f).

22 80. Even after the Court of Appeal has reversed the judgment earlier  
23 obtained in the matter of Kihagi I, the City refused to have the preliminary  
24 injunction dissolved forcing Kihagi to file a motion to dissolve the injunction. The  
25 City's unlawful conduct is motivated by a personal animus towards Plaintiff and  
26 hostility towards the Ellis Act. The City's conduct in the *Sheehe* matter is ongoing  
27 and continuing. Plaintiff

1           81. Undeterred by the Court of Appeal's decision, Regan brought a  
2 contempt hearing claiming that Kihagi, Aquat and Crescent violated the preliminary  
3 injunctive order. Regan's hatred and personal animosity toward Plaintiffs was so  
4 great that in the civil contempt proceeding, she sought to place Kihagi in jail for five  
5 days. These Plaintiffs filed a notice of appeal on October 1, 2014 after her motion  
6 to dissolve the injunction was denied. While the perfecting of an appeal stayed the  
7 execution of the injunctive order, Regan refused to stay the contempt hearing and  
8 again forced Plaintiffs to seek a writ of supersedeas.

9           82. In *Sheehe*, after the City failed to coerce Plaintiffs into a new settlement  
10 that would provide for one low income unit, the City located a former tenant and  
11 encouraged and urged that he file within weeks a meritless action against Plaintiff  
12 for failing to offer to re-rent a unit formerly occupied by him. The tenant's lawsuit  
13 was encouraged and directed by Allison Regan and the City, even though it is  
14 without merit. It is on the third amended complaint, which was the subject of a  
15 demurrer because the action is barred by the statute of limitations. However, all  
16 proceedings in the trial court are stayed pending appeal.

17           83. The City's vindictive actions in the *Sheehe* action were all orchestrated  
18 by Regan acting in the name of the City with final decision making authority.

19           84. After encouraging and directing Sheehe to file a meritless action, the  
20 City under the direction of Allison Regan intervened in the lawsuit and sought to  
21 expand the its scope. Regan and the City orchestrated the *Sheehe* action by  
22 soliciting Sheehe and all along planned to expand the scope of the lawsuit to pursue  
23 the position that the court of appeal rejected in *City v. Kihagi I*. In *Sheehe*, the City  
24 took the same "absurd" position that was earlier rejected by the court of appeal.  
25 When the trial court issued an ambiguous oral ruling, the City, in bad faith,  
26 submitted to the trial court a Notice of Ruling that enjoined Crescent and Kihagi  
27 from renting or leasing certain units unless first complying with the Ellis Act by  
28

1 giving the former tenants the rights of first refusal and offering the same MAR as of  
2 2008. These were the same units that the court of appeal earlier found were outside  
3 the scope of the Ellis Act restrictions because no rental had occurred.

4 85. In the *Sheehe* action, the City attempted to place Ellis Act rent control  
5 restrictions on units even though the court of appeal squarely held that the specific  
6 units were not subject to the Ellis Act rent control restrictions, specifically that  
7 Kihagi must offer the units at the same MAR at the time the property was  
8 withdrawn in 2008. The non-conforming Notice of Ruling is that it sought to bring  
9 within the scope of Ellis Act restrictions the same units that were found not to be  
10 subject to Ellis Act restrictions in an earlier court of appeal opinion. The City and  
11 Allison Regan are presently prosecuting the *Sheehe* action premised on the precise  
12 same position that was found to be “absurd” in *WH v. Kihagi I*.

13 86. In *Sheehe*, Plaintiff was subjected to the prospect of 5 days of jail time  
14 in a civil contempt proceedings and forced to incur attorney fees to file an appeal of  
15 the intentionally misleading Notice of Ruling and then to seek a stay via a writ of  
16 supersedeas and application for temporary stay. On December 4, 2014, the court of  
17 appeal granted the writ and stayed all proceedings in *Sheehe*. The proceedings in  
18 the court of appeal involve the City prosecuting the same position that was found to  
19 be “absurd” in *WH v. Kihagi I*.

20 87. During this time frame, Regan quietly sought another judgment in the  
21 Kihagi I matter that Kihagi only subsequently learned. Regan clearly took  
22 advantage of Kihagi’s former counsel withdrawal from the case, which left her,  
23 Crescent and Aquat without counsel while they were fighting to have the contempt  
24 hearing stayed in the *Sheehe* matter. The basis of the second motion for  
25 enforcement in that case is the same issue and subject pending in *Sheehe*, in that  
26 Regan claimed that Kihagi re-rented *Sheehe*’s unit in May of 2014 thereby violating  
27 the Settlement Agreement. The City gave no notice to 1263 N. Crescent, LLC and  
28



1 Aquat 009, LLC but sought to permanently enjoined Kihagi and the LLCs from  
2 proceeding with the termination of tenancies at 1263-12671/2 N. Crescent Heights  
3 Blvd. under the Notice to the City of Intent to Withdraw Rental Units from the  
4 Market filed with the City of West Hollywood on July 17, 2008.

5 88. In *People v. Kihagi*, Case No. 4WA32199, the City recently filed  
6 criminal charged against Kihagi in violation of West Hollywood Municipal Code §  
7 17.52.090. Section 17.52.090 makes it a criminal offense to have “caused,  
8 permitted, aided, abetted, or suffered the harassment of a tenant in a manner that  
9 was likely to create a hostile living environment or cause a reasonable tenant  
10 similarly situated to vacate the rental housing unit.” There is no allegation that a  
11 tenant vacated a unit due to any unlawful acts of Plaintiff and the statute  
12 unconstitutional on its face. First, it is unconstitutionally vague in the use of the  
13 term “harassment . . . likely to create a hostile living environment.” *Baba v. Board*  
14 *of Sup'rs of San Francisco*, 124 Cal. App. 4th 504, 506 (Statute making a criminal  
15 offense to threaten to evict or recover possession in connection with Ellis Act  
16 conversion held unconstitutional). In *Baba*, the California Court of Appeal held that  
17 an ordinance substantially similar to § 17.52.090 is unconstitutional on its face. It  
18 makes criminal it a criminal offense to have “permitted . . . conditions likely to  
19 create a hostile living condition.” Second, the statute impermissibly makes unlawful  
20 speech protected by the First Amendment. The prosecution of this criminal action  
21 was done at the direction of defendant Allison Regan maliciously and motivated by  
22 a personal animus towards Kihagi.

23 89. On about January 6, 2015, the Court in *People v. Kihagi*, Case No.  
24 Case No. 4WA32199, granted Kihagi’s motion to dismiss on the grounds that to §  
25 17.52.090 is facially unconstitutionally because the ordinance is unconstitutionally  
26 vague and also makes criminal speech protected by the First Amendment.  
27  
28

1           90.     The complaint in *People v. Kihagi*, Case No. 4WA32199, which was  
2 filed on August 19, 2014 alleging four violations of West Hollywood Municipal  
3 Code Section 17.28.010(b), failure to register rental units after a vacancy and  
4 amended on September 17, 2014 to add two additional violations. These charges  
5 were filed even though Kihagi had timely provided the City Attorney with all the  
6 required registration information. Kihagi was singled out for enforcement and was  
7 factually innocent of the charges. After the Court dismissed the criminal charges  
8 related to tenant harassment, the People voluntarily dismissed the § 17.28.010 (b)  
9 charges, barring any further prosecution for the alleged offenses. The charges  
10 alleging violations of the registration requirements against Kihagi were the result of  
11 her being singled out and discriminated against due to the City's policy to eliminate  
12 or weaken the Ellis Act by punishing Kihagi for exercising her rights. The charges  
13 were brought at the urging of Regan and other City officials acting in their  
14 investigative rather than prosecutorial capacity. The West Hollywood City Attorney  
15 was not the office assigned to prosecute the criminal charges brought in *People v.*  
16 *Kihagi* and had no role other than in an investigative capacity.

17           91.     In connection with the prosecution of the criminal action in Case No.  
18 4WA32199, Regan took on a role outside that of a prosecutor. She interviewed and  
19 solicited witness testimony and assisted in the preparation of investigative reports to  
20 submit to the attorneys responsible for prosecuting the case, an outside law firm.  
21 Regan played no role as a prosecutor in this criminal action, but rather as the  
22 individual who headed up the investigations and urged the actual prosecutors to file  
23 charges.

24           92.     On information and belief, Regan, either directly or indirectly through  
25 others, solicited tenants and encouraged them to embellish or fabricate stories to the  
26 effect that Plaintiff created a "hostile living condition" for the purpose of bringing  
27  
28

1 criminal charges. This criminal case was orchestrated by Regan who encouraged  
2 and persuaded witnesses to give embellished and misleading statements.

3 93. The City, Michael Jenkins, and Allison Regan have recently initiated  
4 yet another civil proceeding in August of 2014 to collect fines and assessments in  
5 connection with the citations complained of herein. Many of the citations were six  
6 years old and the notices of fine were given in 2004. The action is styled *City of*  
7 *West Hollywood v. Kihagi*, Case No. SC122915. The complaint names all Plaintiffs  
8 as defendants. The liability for many of these citations was resolved in an earlier  
9 settlement of a civil action. This latest civil action is brought maliciously and  
10 without cause to believe that Plaintiff is responsible for payment. Furthermore, the  
11 liability on the citations is barred by the statute of limitations. Lastly, the fines  
12 associated with the citations are collectible only against the property and not Kihagi  
13 as Kihagi does not own any of the properties in question. This civil action is  
14 brought maliciously and without cause and the City and Regan know it.

15 COUNT I

16  
17 (Violation of Equal Protection, 42 USC § 1983)

18 (Against All Defendants)

19  
20 94. Plaintiffs incorporates by reference all the preceding paragraphs as full  
21 set forth herein.

22 95. Plaintiffs allege that the Defendants have enforced building codes and  
23 other relevant laws in an arbitrary, capricious and discriminatory manner as more  
24 specifically alleged herein. The Defendants have enforced the City's laws in a  
25 uniquely discriminatory fashion against Plaintiffs motivated by a personal animus  
26 towards Plaintiffs and the fact that she is of African descent and in part by a  
27 bureaucratic hostility towards the Ellis Act. By bombarding Plaintiffs with criminal  
28

1 and civil lawsuits and administrative hearings and citations, Defendants have  
2 achieved its primary objective of weakening the Ellis Act because no other landlords  
3 would exercise it or other landlords would think twice before exercising it. The  
4 Defendants have effectively discouraged Plaintiffs from exercising their rights under  
5 the Ellis Act in connection with another building.

6 96. As a result of the City's unequal enforcement of its laws and personal  
7 vendetta, Plaintiffs have been suffered damages in delay in completing their Ellis  
8 Act conversion, incurring attorney fees and having habitable structures held off the  
9 market. She has also incurred attorney fees in defending criminal proceeding  
10 initiated maliciously and suffered extreme emotional distress.

11 97. Defendants have also selectively prosecuted civil and criminal actions  
12 as more fully above. The ordinances that Defendants seek to enforce are  
13 unconstitutionally vague on their face. Plaintiffs have targeted for disparate  
14 treatment in that similarly situated persons are not prosecuted or cited for the  
15 violations and charges described above based on the conduct alleged against  
16 Plaintiffs.

**RELIEF SOUGHT AS TO ALL COUNTS**

WHEREFORE, Plaintiffs prays that the Court award the following relief:

1. For an award of attorney fees pursuant to 42 USC § 1983 and any other applicable law;
2. For general and special damages according to proof;
3. For punitive damages against the City officials sufficient to deter the unlawful conduct alleged herein;
4. For costs of suit herein; and
5. For such other relief as the Court deems proper

Dated: January 4, 2016

NT LAW GROUP

/s/ Julie N. Nong

---

Julie N. Nong

Attorney for plaintiffs

1 DEMAND FOR JURY TRIAL

2  
3  
4 Plaintiff hereby demands a trial by jury.

5 Dated: January 4, 2016

6  
7  
8 NT LAW GROUP

9  
10 /s/ Julie N. Nong

11  
12 \_\_\_\_\_  
13 Julie N. Nong

14 Attorney for plaintiff  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28